

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**ROBERT ORTEGA, Individually and as  
Parent and Next Friend of J.D-O, a minor,  
R.O., a minor, L.O., a minor, J.O., a minor,  
and Y.O., a minor,**

**JUDITH DURAN-ORTEGA, Individually and  
as Parent and Next Friend to J.D-O, a minor,  
R.O., a minor, L.O., a minor, J.O., a minor,  
And Y.O., a minor,**

**Plaintiff,**

**v.**

**CASE NO. 14-CV-760**

**GARY GOLD, former Chief of Police  
of the Las Vegas Police Department, a  
subsidiary of the City of Las Vegas, Individually,**

**MACK ALLINGHAM, an Officer with the  
Las Vegas Police Department, a subsidiary  
of the City of Las Vegas, Individually,**

**MARTIN X. SALAZAR, an Officer with the  
Las Vegas Police Department, a subsidiary  
of the City of Las Vegas, Individually,**

**ERIC PADILLA, an Officer with the  
Las Vegas Police Department, a subsidiary  
of the City of Las Vegas, Individually,**

**MELISSA “MISSY” MARTINEZ, a citizen of the  
State of New Mexico acting in concert with and  
under the direction of Defendant Gary Gold,**

**EUGENE ROMERO, a citizen of the  
State of New Mexico acting in concert with and  
under the direction of Defendant Gary Gold,**

**LUCILLE ROMERO, a citizen of the  
State of New Mexico acting in concert with and**

**under the direction of Defendant Gary Gold,**

**CITY OF LAS VEGAS, a Municipal  
Entity Organized Under the Laws of the  
State of New Mexico, which operates the  
Las Vegas Police Department,**

**Defendants.**

### **NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Gary Gold, Mack Allingham, Martin X. Salazar, Eric Padilla, and the City of Las Vegas (“City Defendants”), by and through their counsel, Tony F. Ortiz, Attorney at Law, LLC, (Tony F. Ortiz, Esq.), hereby respectfully submit their Notice of Removal. As grounds for removal, Defendants state as follows:

### **THE COMPLAINT AND JURISDICTION**

1. This is a civil action filed in New Mexico State District Court by Plaintiffs Robert Ortega and Judith Duran-Ortega, Individually and as Parents and Next Friends of J.D-O., a minor, R.O., a minor, L.O., a minor, J.O., a minor and Y.O., a minor. In their State Court Complaint (the “Complaint”), Plaintiffs allege multiple civil rights violations under the U.S. Constitution and pursuant to federal statute. For example, Plaintiffs seeks to recover compensatory and punitive damages against all Defendants pursuant to 42 U.S.C. §1983 and 42 U.S.C. §1988.

2. This Court, therefore, has original jurisdiction of Plaintiff’s cause of action pursuant to 28 U.S.C. § 1331 and removal of the action to this Court is proper pursuant to 28 U.S.C. § 1441(b).

### **TIMELINESS OF THIS NOTICE**

3. The Complaint was filed on May 29, 2012.
4. A Motion for Reinstatement was filed on April 21, 2014, after no service was made on the original filing.
5. The Order Granting the Motion for Reinstatement was filed on May 19, 2014.
6. The earliest date upon which the Officers Gary Gold, Mack Allingham, Martin X. Salazar and Eric Padilla each received a copy of the Summons and Complaint was June 18, 2014.
8. Complete copies of all process, pleadings, and orders served on or received by the Defendants are attached hereto collectively as **Exhibit A**.
9. City of Las Vegas Defendants (Officers Gary Gold, Mack Allingham, Martin X. Salazar and Eric Padilla and the City of Las Vegas), all of whom are represented by undersigned counsel, hereby consent to removal of this matter from the Fourth Judicial District to Federal District Court. *See Roybal v. City of Albuquerque*, 2008 WL 5991063 (D.N.M.) (permitting one notice of removal for defendants represented by the same counsel). Upon information and belief, and at least two of the remaining defendants have not been served.
10. By agreement, the date for a response was set and accepted as August 22, 2014, and as such is timely. Additionally, this case is being removed less than one year after the reinstatement of the action in the Fourth Judicial District Court for the State of New Mexico.

### **REMOVAL PROCEDURE**

11. This action is removable pursuant to 28 U.S.C. § 1441(b).
12. Pursuant to 28 U.S.C. § 1446(a), complete copies of all process, pleadings, and orders served on or received by the defendants are attached hereto collectively as Exhibit A.

13. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal has been served upon counsel for Plaintiff via mail.

14. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal has been forwarded to the Clerk of the Fourth Judicial District Court of the State of New Mexico for filing.

WHEREFORE, all City of Las Vegas Defendants hereby request that the above-captioned cause of action be removed from the Fourth Judicial District Court for the State of New Mexico, to the United States District Court for the District of New Mexico.

Respectfully submitted,

TONY F. ORTIZ, ATTORNEY AT LAW, LLC

By: /s/ Tony F. Ortiz  
Tony F. Ortiz  
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Santa Fe, NM 87505  
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*Attorney for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>nd</sup> day of August, 2014, I caused a true and correct copy of this Notice of Removal to be sent, via First Class mail, postage prepaid, to the following counsel for Plaintiff Robert Ortega:

Anna C. Martinez  
Aequitas Law, LLC  
P.O. Box 25304  
Albuquerque, NM 87125  
(505) 750-8005  
*Attorney for Plaintiff*

By: /s/ Tony F. Ortiz  
Tony F. Ortiz